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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee
on Economic, Social and Cultural Rights

NETHERLANDS

I. EUROPEAN PART OF THE KINGDOM

1. The Committee considered the second periodic report of the Kingdom of the Netherlands: the European part of the Kingdom concerning the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.11) at its 13th to 17th meetings, held on 5, 6 and 7 May 1998, and adopted* the following concluding observations.

A. Introduction

2. The Committee thanks the Government of the Netherlands for the presentation of its report, which was in keeping with the Committee's guidelines, although it was nearly nine years late. The Committee also welcomed the written submission of full replies to its list of questions and expressed satisfaction at the open and constructive dialogue with the State party, which was represented by a delegation of experts. The Committee appreciates the high quality of the information contained in the core document (HRI/CORE/1/Add.66).

* At the 28th meeting (eighteenth session), held on 15 May 1998.

B. Positive aspects

3. The Committee recognizes the State party's long tradition of respect for human rights and that the various initiatives it has taken to guarantee these rights more surely have been included as part of this tradition.

4. The Committee notes that the Netherlands has to a considerable extent met its obligations with respect to the protection of the rights set out in the Covenant.

5. The Committee welcomes the programmes and measures adopted in the education system to eliminate discrimination against women and to address social stereotypes of women in the media.

6. The Committee welcomes very warmly the success of the campaign against racial discrimination which can be seen in particular in the fact that incidents of racial violence have disappeared.

7. The Committee also welcomes the Government's programmes to create new jobs and help the unemployed, particularly ethnic minorities, young people and persons over 50 years of age, to become part of or to become reintegrated into the labour force.

8. The Committee welcomes the Government's intention to withdraw the reservation it entered in the Covenant concerning the right to strike.

9. The Committee considers that the Government's policy of providing subsidies for the construction of places of worship for the various religions practised in the Netherlands is of considerable importance both in helping to combat discrimination and in contributing to the realization of the right to take part in cultural life.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee notes that the structural adjustment policy adopted by the Government has lowered the standard of living of the lowest income groups. The reduction in services and subsidies previously provided by the State has had adverse effects on wages, health, social security and education. This policy has not undergone any change despite the economic growth recorded over the last four years, but the Committee notes the Government's assertion that it will continue its efforts to alleviate the damage which the policy has caused or may cause to the most vulnerable sectors of society.

D. Principal subjects of concern

11. In line with its General Comment 3, the Committee considers that, at a minimum, certain provisions of the Covenant are potentially able to be directly applied both in law and in policy. It therefore cannot accept the assertion by the representative of the State party that "for essentially technical reasons the Covenant ... is not directly applicable".

12. The Committee is concerned by continuing discrimination against women at work. Their higher rate of unemployment, their lower position on the wage scale and their disproportionate representation in part-time work reveal that the principle of equality established by the law is not effectively enforced.

13. Racial discrimination can also be seen to exist in labour matters, contributing to some extent to unemployment among immigrants.

14. A third group which suffers from discrimination in the labour market is persons 55 to 65 years of age, whose unemployment rate is over 50 per cent.

15. The Committee expresses its concern at the permissive nature of labour legislation with regard to overtime, the excessive use of which may give rise to a decline in the creation of further jobs.

16. The Committee expresses its concern that the reform of the social security system may have certain adverse consequences for the most underprivileged sectors of society.

17. The Committee regrets that the statistical data on violence against women and child abuse have not been analysed and used to formulate measures to address these problems. The Committee also regrets that the lack of information on child prostitution has prevented both the Government and the Committee from appreciating the extent of this problem.

18. The Committee views with concern the living conditions of asylum seekers in some reception centres in the country.

19. The Committee wishes to express its concern at the consequences of the Tuition Fees Act which has led to a constant increase in the cost of education. Such increases are contrary to the principle of equality of opportunities between the children of rich families and children of poor families.

20. The Committee wishes to express its concern at the statement by the State party that the Government of the Kingdom of the Netherlands is not responsible for the implementation of economic, social and cultural rights in Aruba and the Netherlands Antilles, given that Aruba and the Netherlands Antilles are equal parts of the Kingdom of the Netherlands and the Government of the Netherlands contributes every year 1.5 per cent of GNP to Aruba and the Netherlands Antilles.

E. Suggestions and recommendations

21. The Committee recommends that the Government reassess the extent to which the provisions of the Covenant might be given direct applicability within the Kingdom.

22. The Committee recommends that the Government intensify its efforts to guarantee men and women equal access to employment and equal wages for work of equal value.

23. The Government should continue its endeavours to root out racial discrimination in the labour market with a view to facilitating the integration of immigrants and their families into the national life.

24. The Committee encourages the Government to adopt measures to promote the access of persons between the ages of 55 and 65 to the labour market.

25. The Committee urges the Government to ensure that the reduction of budgetary allocations for social welfare programmes does not adversely affect the economic, social and cultural rights of the most vulnerable groups in the Netherlands, and calls upon the Government to address this issue in detail in its next periodic report.

26. The Committee notes that the Ministry of Justice is currently analysing the results of studies on violence against women and on child abuse, with a view to formulating policies and implementing measures to combat these problems. The Committee recommends that more clearly targeted policies be adopted to protect the welfare of the family. The Committee requests an update on these matters in the Government's next report.

27. The Government should take appropriate steps to alleviate or eliminate the adverse effects of the Tuition Fees Act.

28. The Committee urges the State party to ensure that it complies fully with its obligations under the Covenant as they apply to Aruba and the Netherlands Antilles.

II. ARUBA

29. The Committee also considered the second periodic report of Aruba (E/1990/6/Add.13) at its 13th to 17th meetings, and adopted the following concluding observations at the 28th meeting.

A. Introduction

30. The Committee regrets that no delegation from Aruba was able to take part in the discussion and that the resulting dialogue therefore proved unsatisfactory, despite attempts by the delegation of the Netherlands to answer questions based on written information received from Aruba. The Committee appreciates the high quality of the information contained in the core document (HRI/CORE/1/Add.68).

B. Positive aspects

31. The Committee notes that Aruba has, generally speaking, achieved a satisfactory level of compliance with its obligations concerning the protection of the rights established in the Covenant.

32. The Committee notes with satisfaction the low rate of unemployment in Aruba.

C. Factors and difficulties impeding the implementation of the Covenant

33. The Committee considers that a major challenge facing the government in relation to the implementation of the Covenant concerns the challenges posed by the number of foreign workers in the territory.

D. Principal subjects of concern

34. The Committee regrets that none of the provisions of the Covenant may be directly invoked in the courts. This situation is inconsistent with the approach adopted by the Committee in its General Comment 3.

35. The Committee is concerned at the inequalities between men and women, particularly with regard to equal wages for equal work.

36. The Committee notes the slow progress of the Joint Committee for the revision of the Civil Code, established in 1993 to do away with the anachronistic provisions embodying the inequalities between men and women.

37. The Committee expresses its concern at the fact that primary education is still not compulsory, and at the high rate of school drop-outs in Aruba.

E. Suggestions and recommendations

38. The Committee recommends that a reassessment should be made of the extent to which the provisions of the Covenant might be given direct applicability in Aruba.

39. The Committee recommends that the government intensify its efforts to guarantee the effective implementation of equality between men and women, particularly with regard to equal wages for work of equal value.

40. The Committee recommends that the authorities abolish provisions in the country's legislation constituting any form of discrimination and that they promulgate the new Civil Code as soon as possible.

41. It also recommends that a plan of action be adopted urgently to move towards the provision of free compulsory primary education as required by article 14 of the Covenant.

42. The Committee urges the government to intensify its efforts to address the school drop-out problem.

43. In view of the extent to which Aruba's laws and regulations are outdated, the Committee recommends that Aruba bring its laws and regulations up to date in order to ensure full compliance with the Covenant.

III. NETHERLANDS ANTILLES

44. The Committee further considered the second periodic report of the Netherlands Antilles (E/1990/6/Add.12) at its 13th to 17th meetings, and adopted the following concluding observations at the 28th meeting.

A. Introduction

45. The Committee welcomes the participation of a government official from the Netherlands Antilles in the delegation of the State party. The Committee appreciates the high quality of the information contained in the core document (HRI/CORE/1/Add.67).

B. Positive aspects

46. The Committee notes that the Netherlands Antilles has achieved a generally satisfactory level of compliance with its obligations in respect of the protection of the rights set out in the Covenant.

47. The Committee notes that, pursuant to the law, primary education is compulsory in all the islands of the Netherlands Antilles.

C. Factors and difficulties impeding the implementation of the Covenant

48. The Committee notes that the population of the Netherlands Antilles is dispersed over a large geographical area and that this adds another dimension to the challenge of ensuring an effective system for the implementation and promotion of economic, social and cultural rights.

D. Principal subjects of concern

49. The Committee regrets that none of the provisions of the Covenant may be directly invoked in the courts. This situation is inconsistent with the approach adopted by the Committee in its General Comment 3.

50. The Committee is concerned at the inequalities between men and women, particularly with respect to equal access to employment and equal wages for work of equal value.

51. The Committee expresses its concern at provisions that permit practices in matters of inheritance not to be governed by the principle of equity so as to benefit all those who have a legal interest in the inheritance.

52. The Committee expresses its concern at the increase in the school drop-out rate, the causes of which include the difficulties which have emerged in education due to the existence of several tongues spoken as first languages on the islands and the use of Dutch as the language of education.

53. The Committee is also concerned at the existence of three minimum wage levels in each island, since such situations may give rise to or reflect situations of discrimination.

54. The Committee views with concern the problem of the acute shortage of housing and forced evictions, and the homelessness which affects primarily the island of St. Maarten. These problems are compounded by the influx of migrants, by cyclones, and by a sharp decline in the annual expenditure dedicated to housing by the government.

E. Suggestions and recommendations

55. The Committee recommends that the extent to which the provisions of the Covenant might be given direct applicability within the Netherlands Antilles be reassessed.

56. The Committee recommends that the government intensify its efforts to guarantee effective equality between men and women, particularly with regard to equal access to employment and equal wages for work of equal value.

57. The Committee encourages the government, in addressing the school drop-out problem, to expedite the implementation of its programme for education in the students' mother tongues along with the progressive introduction of Dutch. It also recommends the urgent adoption of a plan of action to move towards the provision of free compulsory primary education as required by article 14 of the Covenant.

58. The Committee urges the government to promulgate legislation for the standardization of minimum wages throughout the islands.

59. The Committee encourages the government to carry out its intention to withdraw its reservation to the Covenant concerning the right to strike.

60. The Committee encourages the governments of all three parts of the Kingdom of the Netherlands to circulate these concluding observations as widely as possible among all sectors of society.